S.B. Sales Tax Revision Petition No.51/99
ACTO, Ajmer Vs. M/s. Lodha Brothers Pvt. Ltd.

Date of Order : 03/07/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. R.B. Mathur, for petitioner
Mr. V.C. Sogani, for respondent

Instant revision petition has been filed by the Revenue against the order passed by the Rajasthan Tax Board dt.10th December, 1997 in Appeal No.698/96/ST/Ajmer.

Counsel for respondent submits that there was an exemption of C.S.T. under the Incentive Scheme of 1987 and during the assessment it was found that the assessee issuing sales bills mentioning sales amount of additional 4% plus excise duty and this 4% was considered to be sales tax charged by the assessee and after the notice was served upon the assessee, he submitted their reply denying all such facts stating inter alia that he charged 4% in the form of sales tax. After considering the reply submitted by him, the Assessing Authority imposed penalty along with interest, which was assailed by him before the concerned competent authority and finally the matter went before the Rajasthan Tax Board. Against the order of Tax Board, the Revenue has approached this court by filing present revision petition.

Counsel for respondent submits that the present matter is fully covered by the judgment rendered in STR No.586/99, ACTO Vs. M/s. Lodha Brother [P] Ltd. dt.6th May, 2002 passed by this court wherein it has been observed that 4% additional charge is not the

amount of sales tax and it has further been observed that 4% was sales tax or additional charge in the sale price which is basically a question of fact and no such question of law arises and finally petition was dismissed.

Counsel for petitioner also does not dispute the fact that the Co-ordinate Bench of this court has passed the judgment dt.6th May, 2002 whereby the petition has been dismissed in the case of same assessee involving the same issue.

Consequently, the present revision petition stands dismissed. No order as to costs.

[Ajay Rastogi],J.

FRB